

In the Matter of Merchant Mariner's Document No. Z-939080 and all
other Seaman Documents
Issued to: JOHN MARTIN

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1003

JOHN MARTIN

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11.1.

By order dated 10 June 1957, an Examiner of the United States Coast Guard at New York, New York, revoked Appellant's seaman documents upon finding him guilty of misconduct. The specification alleges that while serving as an able seaman on board the American SS GREENPOINT under authority of the document above described, on or about 4 March 1957, Appellant wrongfully struck and battered a fellow crew member, Quartermaster Carl A. Dahl, with a dangerous weapon, to wit: a length of air hose.

After considering the evidence consisting of the testimony of the two participants and the Master of the ship, the Examiner announced the decision in which he concluded that the charge and specification had been proved. An order was entered revoking all documents issued to Appellant.

The decision was served on 11 June and notice of appeal was timely filed on 13 June 1957.

FINDINGS OF FACT

On a voyage including the dates of 3 and 4 March 1957, Appellant was serving as an able seaman on board the American SS GREENPOINT and acting under authority of his Merchant Mariner's Document No. Z-939080.

On 3 March 1957, the ship was rounding the Cape of Good Hope en route to Dakar, French West Africa, when Quartermaster Carl A. Dahl relieved Appellant of the helmsman watch at 2240 instead of at 2230. An argument followed because Dahl had been ten minutes late relieving Appellant of the normal 30-minute wheel watch. Shortly before midnight, both seamen were relieved of their duties on the 2000 to 2400 watch.

At 0005, Dahl entered the room which he shared with Appellant. The latter was sitting on his bunk fully dressed. Nobody else was in the room. The earlier argument was resumed as Dahl went to the sink and commenced to wash his hands. Appellant invited Dahl to fight and Dahl told Appellant to go to hell. Appellant then approached Dahl from the rear and struck him on top of the head with a two-foot length of air hose with a metal coupling fitted at the end. Dahl turned around and attempted to fight back when he saw Appellant holding the piece of hose. Dahl was struck five or six more blows on the head and blows on the other parts of his body before he was able to escape from the room and go the bridge. Dahl was given first aid treatment by the Master who then questioned both of the seamen about the fight.

Later in the day the ship was diverted to Capetown where Dahl was hospitalized for about ten days, and then he was flown to the United States where he received further medical treatment at the U. S. Public Health Service Hospital, Staten Island, New York. Dahl's injuries consisted of a compound depressed skull fracture, multiple head lacerations and two fractured ribs.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends that the Examiner's decision is unjust because it is based on the testimony of Carl Dahl which contains certain misstatements including the claim that Appellant hit Dahl with a dangerous weapon. Appellant acted in self-defense when Dahl raised his hands to inflict bodily injuries on Appellant. The minutes of a union meeting held on board the ship show that Dahl was an agitator and had threatened Appellant. Further investigation of this incident is requested.

OPINION

The above findings of fact as to how Dahl was injured are in accord with his testimony which was accepted by the Examiner. The latter specifically stated that he did not believe Appellant's testimony that he used a rubber porthole gasket to hit Dahl on the legs and cause him to trip after he had grabbed Appellant but that he did not hit Dahl on the face or head. One of the reasons the Examiner accepted Dahl's testimony that he was beaten on the head and body with a two-foot length of hose is that Appellant's version of the fight did not account for the depressed area on Dahl's head where the suture marks were still clearly visible at the time of the hearing. Another reason was that Dahl's testimony was consistent with his original report to the Master whereas there was some variance between Appellant's testimony and his answers when questioned by the Master just after the incident occurred. In view

of the above, there is no basis for contending that the Examiner's acceptance of Dahl's testimony was unfair. Also, there were no other persons who witnessed the fight. Appellant's claim of self-defense is weakened by the evidence of the very serious injuries received by Dahl compared to the lack of any evidence that Appellant was even slightly injured.

The union meeting minutes submitted on appeal which picture Dahl as an agitator on board ship are not an adequate ground upon which to modify the Examiner's decision. Appellant was given an opportunity to present additional evidence at the hearing but he rested his case on his own testimony. On the basis of the present record, there appears to be no need to conduct further investigation of this matter.

The severe nature of Dahl's injuries is indicated by the decision of the Master to hospitalize Dahl by diverting the ship to Capetown rather than continuing on the Dakar. Such delays are only incurred when they are considered to be necessary in order to avoid possible loss of life or permanent injury.

The order of revocation is considered to be appropriate in this case.

ORDER

The order of the Examiner dated at New York, New York, on 10 June 1957, is AFFIRMED.

J. A. Hirshfield
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 20th day of January, 1958.